

FINRA BrokerCheck

SEC Approves Changes to Expand the Categories of Civil Judicial Disclosures Permanently Included in BrokerCheck and to Include in BrokerCheck Information About Member Firms and Their Associated Persons of Any Registered National Securities Exchange That Uses the CRD System for Registration Purposes

Effective Date: June 23, 2014

Executive Summary

The SEC approved two rule changes related to FINRA Rule 8312 (FINRA BrokerCheck Disclosure). First, the SEC approved amendments to permanently make publicly available in BrokerCheck information about former associated persons of a FINRA member firm who were registered on or after August 16, 1999, and who have been the subject of an investment-related civil action brought by a state or foreign financial regulatory authority that was dismissed pursuant to a settlement agreement.¹ Second, the SEC approved amendments to include in BrokerCheck information about member firms and their associated persons of any registered national securities exchange that uses the Central Registration Depository (CRD®) for registration purposes.² Both rule changes will become effective on June 23, 2014.

The text of the rule amendments is set forth in Attachment A.

Questions concerning this *Notice* should be directed to FINRA's Gateway Call Center at (301) 590-6500.

February 2014

Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Registration
- ▶ Senior Management

Key Topics

- ▶ BrokerCheck
- ▶ Central Registration Depository
- ▶ Uniform Registration Forms

Referenced Rules & Notices

- ▶ Exchange Act Section 15A(i)
- ▶ FINRA Rule 8312

Background & Discussion

FINRA Rule 8312 governs the information FINRA releases to the public via BrokerCheck. FINRA established BrokerCheck in 1988 (then known as the Public Disclosure Program) to provide the public with information on the professional background, business practices, and conduct of FINRA member firms and their associated persons. The information that FINRA releases to the public through BrokerCheck is derived from the CRD system, the securities industry online registration and licensing database. Firms, their associated persons and regulators report information to the CRD system via the uniform registration forms.³ Among other things, BrokerCheck helps investors make informed choices about the individuals and firms with which they conduct business.

Expansion of the Categories of Civil Judicial Disclosures Permanently Included in BrokerCheck

Pursuant to FINRA Rule 8312, BrokerCheck provides information regarding current and former member firms, as well as current associated persons and persons who were associated with a member firm within the preceding 10 years. In addition, BrokerCheck makes publicly available on a permanent basis information about former associated persons of a member firm who have not been associated with a member firm within the preceding 10 years, and (a) were ever the subject of a final regulatory action, or (b) were registered on or after August 16, 1999, and were (i) convicted of or pled guilty or nolo contendere to a crime; (ii) the subject of a civil injunction in connection with investment-related activity or a civil court finding of involvement in a violation of any investment-related statute or regulation (Civil Judicial Disclosures); or (iii) named as a respondent or defendant in an investment-related arbitration or civil litigation which alleged that the person was involved in a sales practice violation and which resulted in an arbitration award or civil judgment against the person.

Beginning on June 23, 2014, FINRA will expand the categories of Civil Judicial Disclosures that are permanently included in BrokerCheck. Specifically, FINRA will permanently make publicly available in BrokerCheck information about former associated persons of a member firm who were registered on or after August 16, 1999, and who have been the subject of an investment-related civil action brought by a state or foreign financial regulatory authority that was dismissed pursuant to a settlement agreement, as reported to the CRD system via a uniform registration form.⁴

FINRA will disclose through BrokerCheck information concerning such settlements, administrative information (*e.g.*, employment and registration history), and information as to passed qualification examinations regarding these formerly registered individuals. FINRA also will provide the most recently submitted comment, if any has been provided by the formerly registered individual, presuming the comment is in the form, in accordance with the procedures established by FINRA, and relates to the information provided through BrokerCheck.

Inclusion in BrokerCheck of Information About Member Firms and Their Associated Persons of Any Registered National Securities Exchange that Uses the CRD System for Registration Purposes

Since BrokerCheck's establishment in 1988, the registration information available through BrokerCheck has been limited to firms and individuals that have been registered with FINRA. BrokerCheck has not contained information regarding firms or individuals whose registrations have been exclusively with a registered national securities exchange (although such information is contained in the CRD system for exchanges that use the CRD system for registration purposes).

Congress amended Section 15A(i) of the Securities Exchange Act of 1934 to, among other things, require FINRA to provide through BrokerCheck registration information on the members and their associated persons of any registered national securities exchange that uses the CRD system for the registration of its members and their associated persons.⁵ Accordingly, beginning on June 23, 2014, FINRA will expand BrokerCheck to include information about these non-FINRA registered firms and individuals.⁶ The information that will be disclosed through BrokerCheck for these firms and their associated persons will be the same as the information disclosed about FINRA member firms and their associated persons pursuant to FINRA Rule 8312. In addition, these non-FINRA registered firms and individuals will be able to dispute inaccuracies in their BrokerCheck reports as provided for in FINRA Rule 8312(e).

Endnotes

1. See Securities Exchange Act Release No. 71196 (December 27, 2013), 79 FR 417 (January 3, 2014) (Order Approving SR-FINRA-2013-048).
2. See Securities Exchange Act Release No. 71195 (December 27, 2013), 79 FR 419 (January 3, 2014) (Order Approving SR-FINRA-2013-047). The amendments also include non-substantive technical changes to FINRA Rule 8312 to reflect a change in FINRA's style convention for referencing the CRD system.
3. The uniform registration forms are Form U4 (Uniform Application for Securities Industry Registration or Transfer), Form U5 (Uniform Termination Notice for Securities Industry Registration), Form U6 (Uniform Disciplinary
4. This information currently is elicited by Question 14H(1)(c) on Form U4.
5. See Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, 120 Stat. 1317 (2006).
6. Firms and individuals that have been registered exclusively with a registered national securities exchange will be included in BrokerCheck only if such registration occurred on or after August 16, 1999.

© 2014 FINRA. All rights reserved. FINRA and other trademarks of the Financial Industry Regulatory Authority, Inc. may not be used without permission. *Regulatory Notices* attempt to present information to readers in a format that is easily understandable. However, please be aware that, in case of any misunderstanding, the rule language prevails.

Attachment A

New language is underlined; deletions are in brackets.

* * * * *

8000. INVESTIGATIONS AND SANCTIONS

* * * * *

8300. SANCTIONS

* * * * *

8312. FINRA BrokerCheck Disclosure

(a) In response to a written inquiry, electronic inquiry, or telephonic inquiry via a toll-free telephone listing, FINRA shall release through FINRA BrokerCheck information regarding: [a current or former member or current or former associated person through FINRA BrokerCheck.]

(1) a current or former FINRA member or a current or former member of a registered national securities exchange that uses the Central Registration Depository ("CRD") for registration purposes ("CRD Exchange") (collectively, "BrokerCheck Firms");
or

(2) a current or former associated person of a BrokerCheck Firm.

(b)(1) Except as otherwise provided in paragraph (d) below, FINRA shall release the information specified in subparagraph (2) below for inquiries regarding a current or former BrokerCheck Firm [member], a person currently associated with a BrokerCheck Firm [person], or a person who was associated with a BrokerCheck Firm [member] within the preceding ten years.

(2) The following information shall be released pursuant to this paragraph (b):

(A) through (B) No Change.

(C) summary information about certain arbitration awards against a BrokerCheck Firm [member] involving a securities or commodities dispute with a public customer;

(D) through (G) No Change.

(H) the name and succession history for current or former BrokerCheck Firms [members].

(c)(1) Except as otherwise provided in paragraph (d) below, FINRA shall release the information specified in subparagraph (2) below for inquiries regarding a person who was formerly associated with a BrokerCheck Firm [member], but who has not been associated with a BrokerCheck Firm [member] within the preceding ten years, and:

(A) was ever the subject of a final regulatory action as defined in Form U4 that has been reported to the CRD system on a Registration Form; or

(B) was registered with FINRA or a CRD Exchange on or after August 16, 1999, and any of the following applies, as reported to the CRD system on a Registration Form:

(i) No Change.

(ii) was the subject of a civil injunction in connection with investment-related activity, [or] a civil court finding of involvement in a violation of any investment-related statute or regulation, or an investment-related civil action brought by a state or foreign financial regulatory authority that was dismissed pursuant to a settlement agreement; or

(iii) No Change.

(2) No Change.

For purposes of this paragraph (c), a final regulatory action as defined in Form U4 may include any final action, including any action that is on appeal, by the SEC, the Commodity Futures Trading Commission, a federal banking agency, the National Credit Union Administration, another federal regulatory agency, a state regulatory agency, a foreign financial regulatory authority, or a self-regulatory organization (as those terms are used in Form U4).

(d) FINRA shall not release:

(1) through (5) No Change.

(6) the most recent information reported on a Registration Form, if:

(A) FINRA has determined that the information was reported in error by a BrokerCheck Firm [member], regulator or other appropriate authority;

(B) No Change.

(7) No Change.

(e) Eligible parties may dispute the accuracy of certain information disclosed through FINRA BrokerCheck pursuant to the administrative process described below:

(1) Initiation of a Dispute

(A) The following persons (each an “eligible party”) may initiate a dispute regarding the accuracy of information disclosed in that eligible party’s BrokerCheck report:

(i) any current BrokerCheck Firm [member];

(ii) any former BrokerCheck Firm [member], provided that the dispute is submitted by a natural person who served as the former BrokerCheck Firm’s [member’s] Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Legal Officer or Chief Compliance Officer, or individual with similar status or function, as identified on Schedule A of Form BD at the time the former BrokerCheck Firm [member] ceased being registered with FINRA or a CRD Exchange; or

(iii) any associated person of a BrokerCheck Firm [member] or person formerly associated with a BrokerCheck Firm [member] for whom a BrokerCheck report is available.

(B) No Change.

(2) No Change.

(3) Investigation and Resolution of Disputes

(A) If FINRA determines that the written notice and supporting documentation submitted by the eligible party is sufficient to update, modify or remove the information that is the subject of the request, FINRA will make the appropriate change. If the written notice and supporting documentation do not include sufficient information upon which FINRA can make a determination, FINRA, under most circumstances, will contact the entity that reported the disputed information (the “reporting entity”) to the CRD system [Central Registration Depository] and request that the reporting entity verify that the information, as disclosed through BrokerCheck, is accurate in content and presentation. If a reporting entity other than FINRA is involved, FINRA will defer to the reporting entity about whether the information received is accurate. If the reporting entity acknowledges that the information is not accurate, FINRA will update, modify or remove the information,

as appropriate, based on the information provided by the reporting entity. If the reporting entity confirms that the information is accurate in content and presentation or the reporting entity no longer exists or is otherwise unable to verify the accuracy of the information, FINRA will not change the information.

(B) through (C) No Change.

(f) No Change.

• • • **Supplementary Material:** -----

.01 No Change.

.02 Disputes Not Eligible for Investigation. For purposes of paragraph (e) of this Rule, examples of situations in which FINRA will determine that a dispute is not eligible for investigation include, but are not limited to:

(a) through (e) No Change.

(f) a dispute that involves information contained in the CRD system [Central Registration Depository] that is not disclosed through BrokerCheck.

.03 Availability of Information Regarding Firms and Associated Persons Registered Exclusively With a CRD Exchange. Information about firms and associated persons that have been registered exclusively with a CRD Exchange is available through BrokerCheck only if the firm or associated person has been registered with a CRD Exchange on or after August 16, 1999.

* * * * *